IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9293 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AJITSINGH NETRAM VASHISTHA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9293 of 2002

MR RC KAKKAD for Petitioner No. 1

MS SONAL VYAS, AGP for Respondent No. 1 to 4

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 14/10/2002

ORAL JUDGEMENT

#. Rule. Ms.Sonal Vyas, learned AGP waives service of rule for respondent nos. 1 to 4. Mr.Kakkad seeks

permission to delete respondent No.5, as, in spite of the notice, he has chosen not to appear before this Court. Permission is granted accordingly. With the consent of the parties, the matter is taken up for final hearing today.

#. The petitioner has challenged the order passed by the Secretary (Appeals), Revenue Department dated 16.3.2002, which is at Annexure-F in the compilation. By the impugned order, the Principal Secretary has refused the interim relief to the petitioner. It is an admitted fact that, revision of the petitioner, being Revision Application No.12 of 2002 is still pending for final disposal. Since the main revision is pending, in the facts and circumstances of the case, the Secretary should have granted the interim stay against the execution of the order of the Collector. Since revision is pending, the Secretary may dispose of the said revision on its own merits, and, in accordance with law expeditiously and preferably by 31.1.2003. Till revision is disposed of by the Secretary, the order of the Collector bearing No.Land/1/C/3267/2001 dated 29.11.2001 treating the said transaction invalid is stayed. It is clarified that, this Court has interfered with the impugned order mainly because since revision is admitted by the Secretary, the order of the Collector is required to be stayed, otherwise, revision application would become infructuous. It is clarified that, this Court has not expressed any opinion on the merits of the issue and it is for the Secretary to decide the same.

#. With these observations, this petition is allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar,J)
(pathan)